

SENATE BILL 3136

By Fowler

AN ACT to amend Tennessee Code Annotated, Section 5-7-101; Title 12; Title 29, Chapter 17 and Title 29, Chapter 16, and other sections of Tennessee Code Annotated relative to eminent domain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapters 16 and 17, are amended by deleting such chapters in their entirety and by substituting instead the language in Section 2 as a new chapter 16 with parts as designated therein.

SECTION 2.

PART 1

29-16-101. (a) Any governmental entity and any other person or entity possessing the power of eminent domain may exercise such power for public purposes in accordance with the provisions of this part.

(b) Unless expressly stated to the contrary, and without incorporation or reference, the provisions of this part shall be deemed to be a part of every section or legislative act, present or future, which grants the power of eminent domain for public purposes, and the determination of damages in the manner set forth in this part shall also be so implied.

(c) The provisions of this part are also extended so that the powers and procedures set forth in this part shall apply to the condemnation of property and property rights, including easements and privileges, of individuals and entities of all types for public purposes.

29-16-102. When a governmental entity or other person or entity with the power of eminent domain deems it necessary or desirable to condemn any property or property rights, it shall proceed to determine what it deems to be the total amount of damages to which the owner is entitled because of the taking of such property or property rights, and shall deposit such

amount with the clerk of the circuit court having jurisdiction in the county in which the same, or a portion of the same, is located, and shall file a petition in such court asking that the same be condemned and decreed to the condemnor.

29-16-103. (a) Such petition for condemnation shall:

(1) Name as respondents all persons and entities which have or may have an interest in, or lien upon, such property or property rights, although it shall not be necessary to specify the claim or interest of each respondent;

(2) State the residence of each if known, and if unknown, that fact shall be stated;

(3) Contain a description of the property or property rights sought to be condemned;

(4) State the particular public purpose for which property or property rights are to be used;

(5) State the total amount of damages to which the condemnor has determined that the respondents together will be entitled, including those fees and costs set out in §29-16-110(a)(1), which amount shall be deposited with the clerk.

(6) Pray that the property or property rights be condemned and decreed to the condemnor.

(b) Notice of the filing of such petition shall be given to each respondent at least thirty (30) days prior to the taking of any additional steps in the case. If the respondent is unknown, is a nonresident of the state, or cannot be found, notice shall be given by publication, which shall be made in the same manner as provided by law for similar situations in chancery court.

(c)

(1) After the expiration of thirty (30) days from the date of the giving of such notice, if the right to take has not been challenged in an answer, the condemnor shall

have the right to take possession of the property or property rights sought to be condemned.

(2) If the right to take is challenged in an answer within thirty (30) days from the date of the giving of such notice, the court shall promptly determine as a matter of law whether the condemnor has the right to take the property or property rights sought to be condemned, and if the court determines that the condemnor has the right to take, the condemnor shall thereupon have the right to take possession thereof.

When a condemnor has the right to take possession of property or property rights, if necessary, the court shall issue a writ of possession to the sheriff of the county to put the condemnor in possession. Such writ may be issued prior to a trial on the damages.

(d) If all living parties with an interest in the property or property rights sought to be condemned are made parties to the condemnation action, then any unborn remaindermen shall accordingly be bound by the action.

29-16-104. If the respondents in a condemnation action are satisfied with the amount deposited by the condemnor with the clerk of the court, they may file a statement with the clerk, duly sworn to by them, stating that they: own, have an interest in, or have a lien upon (as applicable) the property or property rights described in the petition; accept the amount deposited with the clerk as full settlement for the taking of such property or property rights and all damages occasioned to the residue of their land, interest or rights; and request the clerk to pay to them the amount deposited by the condemnor, which amount may be divided among the respondents as they may specify in the statement. Upon the filing of such statement, the clerk shall pay to the respondents the amount deposited by the condemnor, and the court shall enter a decree divesting the title to the property or property rights out of the respondents and vesting the same in the condemnor.

29-16-105. If a respondent is not satisfied with the amount deposited by the condemnor, or otherwise objects to the taking, such respondent shall, on or before thirty (30) days from the date of notice of the filing of the petition, file an answer to the petition and a trial may thereafter be had before a petit jury as other civil actions are tried. Such deposit by the condemnor shall not limit or fix the amount to be allowed under subsequent proceedings in the action.

29-16-106. If a respondent asks for a trial as provided by § 29-16-105, all respondents together may file a written request with the clerk signed by all of them that the clerk pay to them, without prejudice to the rights of any party, the amount so deposited with the clerk. The clerk shall pay to them the amount so deposited, provided all respondents agree to refund the difference between such amount and the final award, and in the case that the final award is less than the amount so paid to the respondents, to allow a judgment to be entered against them for the difference.

29-16-107. If a respondent does not answer, then the petition shall be taken as confessed as to such respondent and the case set for hearing upon the record and in the absence of such respondent.

29-16-108.

(a) The right to take is a question of law to be determined by the court, if challenged, and the court shall not deny or set aside a taking of property or property rights for a public purpose unless the taking is arbitrary, capricious, or fraudulent.

(b)

(1) The only issue or question to be tried by the jury in a condemnation action is the amount of damages to be paid as just compensation for the property or property rights taken.

(2) If any party to the condemnation action demands the jury to view the property or property rights proposed to be taken, the jury shall go view such property or property rights.

(c) In the case of adverse claimants to the compensation, the court may require the adverse claimants to interplead, so as to fully determine the rights and interests of the claimants.

29-16-109. If any person or entity that is a proper party respondent in the petition was omitted from the petition, amendments to the same may be filed, amendments which, from the filing of the same, shall have the same effect as though contained in such petition.

29-16-110.

(a).

(1) In determining the amount of damages to be paid, the jury shall give the value of the property or property rights taken without deduction, but incidental benefits which may result to the respondents by reason of the proposed improvement may be taken into consideration in estimating incidental damages. The award of damages shall also include the following costs that were or will be incurred by the owner in connection with the transfer of title to the property or property rights:

(A) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the acquiring party;

(B) Penalty costs for repayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(C) If real property taxes are affected by the condemnation, the pro rata portion of such real property taxes paid which are allocable to a period subsequent to the date of vesting title in the condemnor, or the effective date of possession by the condemnor, whichever is earlier.

Whenever a condemnor acquires interest in any parcel of real property, and such acquisition requires the removal of furniture, household belongings, fixtures, equipment, machinery, or stock in trade of any person or entity in rightful possession, regardless of whether such person or entity has a legal interest in such property, the reasonable expense of the removal shall be considered in assessing incidental damages. The reasonable expense of the removal of such chattels shall be construed as including the cost of any necessary disconnection, dismantling, or disassembling, the loading, and drayage to another location not more than fifty (50) miles distant, and the reassembling, reconnecting, and installing on such new location.

(2) When title to an entire tax parcel is condemned in fee, the total amount of damages for the condemnation of such parcel shall be not less than the last valuation used by the assessor of property just prior to the date of taking less any decrease in value for any changes in such parcel occurring since the valuation was made, such as the removal or destruction of a building, flooding, waste, or removal of trees. Such valuation may be introduced and admitted into evidence at the trial.

(b) Notwithstanding any other provision of law, if any condemnor acquires any interest in real property pursuant to the execution of the power of eminent domain, the condemnor shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which the condemnor requires to be removed from such real property or which such condemnor determines will be adversely affected by the use to which such real property will be put.

(c)

(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (b) of this section, such building, structure, or other improvement shall be deemed to be a part

of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of the tenant's term. If the owner of the land involved disclaims all interest in the improvements of the tenant, the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor. In consideration for any such payment to the tenant, the tenant shall assign, transfer, and release to the condemnor all the tenant's right, title, and interest in and to such improvements. Nothing in this subsection (c) shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

(2) Payment under this subsection (c) shall not result in duplication of any payments otherwise authorized by law.

29-16-111. When any building or structure is situated wholly or in part upon the land sought to be condemned, the condemnor may remove the same to adjoining land of the owner or may divide the same upon the line between the land sought to be acquired and the adjoining land, or may tear down or otherwise dispose of the same.

29-16-112.

(a) In a condemnation action filed by a condemnor pursuant to this chapter, the bill of costs prepared by the clerk shall be taxed against:

(1) The condemnor, if:

(A) The amount of damages awarded at trial exceeds the amount assessed by the condemnor and deposited with the clerk;

(B) The condemnation is abandoned by the condemnor; or

(C) The final judgment is that the condemnor cannot acquire the property or property rights by condemnation; or

(2) The respondents, if the amount of damages awarded at trial does not exceed the amount assessed by the condemnor and deposited with the clerk.

(b) In a condemnation action filed by a condemnor pursuant to this chapter, the court shall award the respondents such sum as will reimburse them for their reasonable disbursements and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the action, only if the costs are taxed to the condemnor pursuant to subdivision (a)(1)(B) or (a)(1)(C) of this section.

(c) Rule 54.04 of the Tennessee Rules of Civil Procedure shall govern the taxing of any additional costs.

29-16-113. At any time prior to the earlier of a condemnor's taking possession of the property or property rights, or the vesting of title thereto in the condemnor, the condemnor may withdraw or voluntarily dismiss its petition with respect to any or all of the property or property rights therein described.

29-16-114. If a governmental entity or other person or entity with the power of eminent domain actually enters upon the land of another for the purpose of making examinations and surveys which may be needed to exercise its powers pursuant to this chapter, and does no unnecessary injury, such entrant is liable only for the actual damages done, and if sued, the plaintiff shall recover only such actual damages.

PART 2

29-16-201. (a) As used in this chapter, unless the context otherwise requires:

(1) "Local government" means a county, municipality, or metropolitan government in this state; and

(2) "Governmental entity" means the state or a county, municipality, or metropolitan government in this state.

29-16-202.

(a) If a local government acquires title to property in fee simple by eminent domain for a public purpose through the proceedings established in this chapter, and if the property is not used for a public purpose, then, notwithstanding any resolution, ordinance, private act, or chapter to the contrary, such property shall be declared to be surplus property and shall be sold at public auction.

(b) For the purpose of this section, the transfer of the title to property by a local government to someone other than a governmental entity, the United States of America, or a person or entity possessing the power of eminent domain for public purposes shall not be deemed to be for a public purpose unless the particular transfer and the terms thereof are specifically approved by the governing body of the local government.

29-16-203. Levee and drainage districts located in counties with a population of not less than thirty thousand (30,000) nor more than thirty-one thousand (31,000) persons according to the 1970 federal census or any subsequent federal census, created pursuant to title 69, chapter 6, are hereby authorized and empowered to acquire by the exercise of the power of eminent domain, in the manner set out in this chapter, such right-of-way, land, material, easements, and rights as may be deemed necessary, suitable, or desirable to construct levees, ditches, drains, or watercourses, or to straighten, widen, deepen, or change natural watercourses in such districts.

29-16-204.

(a) All judgments rendered against a governmental entity condemning property or property rights shall be paid out of the general funds of such governmental entity, together with interest at a rate of two percentage (2%) points greater than the prime loan rate established, as

of the date of the taking, by the federal reserve system of the United States on any excess of the amount awarded an owner over the amount deposited with the clerk.

(b) All judgments rendered against a levee or drainage district, which condemns property or property rights in accordance with this chapter, shall be paid from funds collected as provided in title 69, chapter 6, together with interest at the rate of six percent (6%) on any excess of the amount awarded an owner over the amount deposited with the clerk.

(c) No interest shall be allowed on the amount deposited with the clerk by a condemnor.
29-16-205.

(a) In any condemnation action brought by a person or entity other than a governmental entity, if the right to take is questioned, then before awarding possession of the property or property rights sought, the court shall determine as a matter of law whether the proposed taking of the property or property rights is for a public purpose and is appropriate for that purpose.

(b) For purposes of subsection (a) of this section, the extension of services to meet the service needs of only one (1) private person or entity that is affiliated or under common ownership or control with the condemnor shall not constitute a public purpose if the extension does not function as an aspect of the overall network or system of internal improvements of the condemnor.

29-16-206.

(a)

(1) If a governmental entity or other person or entity possessing the power of eminent domain has actually taken possession of property or property rights of others, occupying them for the purposes of internal improvement without filing a condemnation action or otherwise acquiring them, the owner of such property or property rights may file an inverse condemnation petition requesting a jury, in which case the same proceedings shall be had, as near as possible, as provided in part 1, or the owner may sue for

damages in the ordinary way, in which case the jury shall lay off the property or property rights by metes and bounds and assess the damages.

(2) The owners of property or property rights shall, in such cases, commence proceedings within twelve (12) months after the property or property rights have been actually taken possession of, and the work of the proposed internal improvement begun; saving, however, to unknown owners and nonresidents, twelve (12) months after actual knowledge of such occupation, not exceeding three (3) years, and saving to persons under the disabilities of infancy and unsoundness of mind, twelve (12) months after such disability is removed, but not exceeding ten (10) years.

(b) A court rendering a judgment for the plaintiff in a proceeding brought under subsection (a) of this section arising out of a cause of action identical to a cause of action that can be brought against the United States under 28 U.S.C. §1346(a)(2) or §1491, or the attorney general or chief legal officer of a political subdivision of the state effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court, or the attorney general or chief legal officer of a political subdivision of the state, reimburse such plaintiff for plaintiff's reasonable costs, disbursements and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

PART 3

29-16-301.

(a) The University of Tennessee shall have the power to condemn and appropriate such property and property rights, including easements and privileges, of others as in the judgment of its board of trustees, or the executive committee thereof, may be necessary or proper for the purpose of providing buildings and other facilities, building sites, campus grounds, commons, streets, walkways, rights-of-way for utilities and other improvements, and for any extension,

enlargement, or improvement thereof, for the use and operation of such university and its various units and branches throughout the state.

(b) The compensation for damages in taking of such property and property rights shall be paid by such university, and the same shall be condemned and determined in the mode and manner provided in parts 1, 2, and 6 of this chapter.

PART 4

29-16-401.

(a) In a condemnation action filed by a housing authority created pursuant to the Housing Authorities Law (compiled in title 13, chapter 20) or any other law of this state, the ultimate amount of damages shall be determined pursuant to parts 1 and 2 of this chapter. The provisions of parts 1 and 2, including the procedures, rights, and duties set forth therein, shall apply to a condemnation action filed by a housing authority to the extent they do not conflict with the provisions of this part 4.

(b) Any judgment rendered against a housing authority in a condemnation action in excess of the amount deposited by it with the circuit court clerk shall bear interest at the rate set forth in §29-16-204.

(c) From the earlier of its taking possession of the property or property rights condemned or the vesting of title in it, provided, however, that:

(1) No interest shall be allowed on the amount deposited by the housing authority with the clerk.

(2) In the event the housing authority does not obtain possession of the property on the date of vesting of title, the ultimate amount of the judgment, including any interest accruing on the deposit deficiency, shall be subject to abatement for use, income, rents, or profits derived from such property by the respondents in the condemnation action

subsequent to the vesting of title in the housing authority, and any funds disbursed shall be less the amount of abatement.

29-16-402. (a)

(1) After the expiration of thirty (30) days from the date that notice of the filing of a petition for condemnation is given by a housing authority, if the right to take has not been challenged in an answer, the housing authority may file a declaration of taking at any time before the entry of a final judgment.

(2) If the right to take is challenged in an answer within thirty (30) days from the date that such notice is given, the housing authority may file a declaration of taking at any time after the court determines that the housing authority has the right to take the property or property rights sought.

(b) When a housing authority properly files a declaration of taking, the court shall promptly vest title to the property or property rights described therein in the housing authority, free from the right, title, interest, or lien of all parties in the action, and such property or property rights shall be deemed to be condemned and taken for the use of the housing authority, and the right to damages, including just compensation, for the same shall vest in the persons entitled thereto.

(c) A declaration of taking shall be sufficient if it sets forth:

(1) A description of the property or property rights being taken, sufficient for the identification thereof, to which there may be attached a plat or map thereof;

(2) A statement of the estate or interest in such property or property rights being taken; and

(3) A statement of the amount of damages which the housing authority has determined that the respondents are entitled to receive for the property or property rights described in the declaration.

If an entire tax parcel is described in the declaration and taken in fee, the amount of damages stated therein shall not be less than the last valuation used by the assessor of property just prior to the date of taking less any decrease in value for any changes in such parcel occurring since the valuation was made, such as the removal or destruction of a building, flooding, waste, or removal of trees. Such valuation may be introduced and admitted into evidence at the trial.

PART 5

29-16-501. Any person or entity employed under an act of congress of the United States, passed on August 6, 1947, and of the supplements thereto, or under the direction of congress, to provide charts and related information for the safe navigation of marine and air commerce and for other purposes, may enter upon lands within this state for the purpose of exploring, triangulating, leveling, surveying, and of doing any other act which may be necessary to carry out the objects of such laws, and may erect any works, stations, buildings, and appendages requisite for that purpose, doing no unnecessary injury thereby.

29-16-502. If a person or entity owning or having an interest in lands where the survey has been made, or lands where monuments, stations, or buildings have been erected, or which has in any way sustained damage by such survey, cannot agree with the officer of the survey as to the damage sustained, the amount of such damage may be ascertained in the manner provided for the taking of private property for public uses under parts 1 and 2.

PART 6

29-16-601.

(a) Whenever any governmental entity, the United States of America, or any other person or entity possessing the power of condemnation for public purposes shall desire to take or damage private property or property rights in pursuance of any law so authorizing, and shall find or believe that the title of the apparent or presumptive owner of such property or property rights is defective, doubtful, incomplete, or in controversy; or that there are or may be persons or entities which are unknown, cannot be found, or are nonresidents that have or may have some claim or demand thereon, or some actual or contingent interest or estate therein; or that there are minors or persons under disability who are or may be interested therein; or that there are taxes due or that should be paid thereon; or shall, for any reason, conclude that it is desirable to have a judicial ascertainment of any question connected with the matter, the governmental entity, the United States, or such other person or entity, as the condemnor, through any authorized representative, may petition the circuit court of the county having jurisdiction, for a judgment in rem against such property or property rights, condemning the same to the use of the petitioner upon payment of just and adequate compensation therefor to the person or persons entitled to such payment.

(b) The petition shall be filed and heard by the court in accordance with the provisions of parts 1 and 2 to the extent they do not conflict with the provisions of this part 6, and damages shall be determined by the jury in accordance with said provisions. If any of the persons referred to are minors or under disability, the facts shall be stated. If it shall appear that any of the respondents are unknown, are nonresidents of the state, or cannot be found, publication shall be made for them in the same manner as provided by law in similar situations in chancery court.

(c) All parties having any interest in such property or property rights may be made respondents, and proceedings shall only cover and affect the interests of those who are actually

made parties; however, any unborn remaindermen shall be bound by the proceedings to which all living persons in interests are parties.

(d) If it shall appear that any of the party respondents are minors or under disability, and are not otherwise represented by counsel, the presiding judge shall appoint a guardian ad litem to represent them, whose compensation shall be fixed by the court and taxed as a part of the costs.

29-16-602.

(a) After the expiration of thirty (30) days from the date of the giving of such notice, if the right to take has not been challenged in an answer, the condemnor shall have the right to take possession of the property or property rights sought to be condemned.

(b) If the right to take is challenged in an answer within thirty (30) days from the date of the giving of such notice, the court shall promptly determine as a matter of law whether the condemnor has the right to take the property or property rights sought to be condemned, and if the court determines that the condemnor has the right to take, the condemnor shall thereupon have the right to take possession thereof.

(c) When the condemnor has the right to take possession of property or property rights, if necessary, the court shall issue a writ of possession to the sheriff of the county to put the condemnor in possession. Such writ may be issued prior to a trial on the damages.

29-16-603.

(a) In such in rem proceeding, any person or entity claiming any interest or rights therein may file appropriate pleadings or intervene at any time before the jury determines the damages and be fully heard thereon on matters not yet determined by the court.

(b) After the final judgment is entered and any additional damages owed are paid into the registry of the court as determined by the jury, the condemnor shall not be concerned with or

affected by any subsequent proceedings in the trial court, such as with respect to the division or disposition of the funds held by the court among the respondents or claimants.

29-16-604. The provisions of this part 6 shall not be construed as repealing any provisions of other statutes prescribing a procedure for the condemnation of property or property rights, but as supplementary thereto and cumulative thereof, and are intended to make simpler and more effective the method of condemnation in those situations where conflicting interests or doubtful questions render a judicial supervision of the procedure desirable.

SECTION 3. Tennessee Code Annotated, Section 5-7-101, is amended by deleting the section in its entirety, and by substituting instead the following language:

Each county may acquire and hold property for county purposes, and make all contracts necessary or expedient for the management, control, and improvement thereof, and for the better exercise of its civil and political powers, and, except as provided in §29-16-114 or §§5-14-107(10) and 5-14-108(o)(1) of the County Purchasing Law of 1957, may make any order for the disposition of its property.

SECTION 4. Tennessee Code Annotated, Section 6-54-122(a), is amended by deleting the language “chapters 16 and 17”, and by substituting instead the language “chapter 16”.

SECTION 5. Tennessee Code Annotated, Section 7-5-108, is amended by deleting the language “chapters 16 and 17”, and by substituting instead the language “chapter 16”.

SECTION 6. Tennessee Code Annotated, Section 7-39-303(a), is amended by deleting the figure “17”, and by substituting instead the figure “16”.

SECTION 7. Tennessee Code Annotated, Section 7-51-1203, is amended by deleting the figure “17”, and by substituting instead the figure “16”.

SECTION 8. Tennessee Code Annotated, Section 7-56-207, is amended by deleting the language “chapters 16 and 17”, and by substituting instead the language “chapter 16”.

SECTION 9. Tennessee Code Annotated, Sections 7-84-301 and 7-84-412, are amended by deleting the figure “17”, wherever it appears, and by substituting instead the figure “16”.

SECTION 10. Tennessee Code Annotated, Section 11-14-407, is amended by deleting the language “chapters 16 and 17”, and by substituting instead the language “chapter 16”.

SECTION 11. Tennessee Code Annotated, Section 13-20-108(b)(1), is amended by deleting the subdivision in its entirety, and by substituting instead the following language:

(1) Title 29, chapter 16, parts 1, 2, 4 and 6, and any amendments thereto;

SECTION 12. Tennessee Code Annotated, Sections 13-21-204 and 13-21-206, are amended by deleting the language “chapters 16 and 17”, and by substituting instead the language “chapter 16”.

SECTION 13. Tennessee Code Annotated, Section 43-34-108, is amended by deleting the figure “17”, and by substituting instead the figure “16”.

SECTION 14. Tennessee Code Annotated, Sections 64-1-204 and 64-1-1103, are amended by deleting the figure “17”, and by substituting instead the figure “16”.

SECTION 15. Tennessee Code Annotated, Sections 64-2-107, 64-2-207, 64-2-307, 64-2-507, and 64-4-106, are amended by deleting the language “chapters 16 and 17”, and by substituting instead the language “chapter 16”.

SECTION 16. Tennessee Code Annotated, Section 68-221-610, is amended by deleting the figure “17”, and by substituting instead the figure “16”.

SECTION 17. Tennessee Code Annotated, Section 70-5-102, is amended by deleting the language “17, parts 7 and 8”, and by substituting instead the figure “16”.

SECTION 18. Tennessee Code Annotated, Section 11-18-101, is amended by deleting the language “§§29-16-101 -- 29-16-122”, and by substituting instead the language “Tennessee Code Annotated, title 29, chapter 16, parts 1, 2 and 6”.

SECTION 19. Tennessee Code Annotated, Section 65-29-104(12) is amended by deleting the language “§§29-16-101 -- 29-16-122” and by substituting instead the language “Tennessee Code Annotated, title 29, chapter 16, parts 1, 2 and 6.

SECTION 20. Tennessee Code Annotated, Section 65-29-125(b)(1), is amended by deleting the language “§§29-16-101 – 29-16-121” and by substituting instead the language “Tennessee Code Annotated, title 29, chapter 16, parts 1, 2 and 6.

SECTION 21. Tennessee Code Annotated, Section 65-6-128, is amended by deleting the language “§§29-16-104 -- 29-16-124.” and by substituting instead the language “Tennessee Code Annotated, title 29, chapter 16, parts 1, 2 and 6.”

SECTION 22. Tennessee Code Annotated, Section 69-5-106, is amended by deleting the section in its entirety, and by substituting instead the following language:

Tennessee Code Annotated, title 29, chapter 16, parts 1, 2 and 6 shall apply to and be taken and construed as parts of this chapter insofar as they are applicable to the purposes of this chapter.

SECTION 23. Tennessee Code Annotated, Section 6-2-201(15), is amended by deleting the language “29-16-114” and by substituting instead the language “29-16-110”.

SECTION 24. Tennessee Code Annotated, Section 6-19-101(15), is amended by deleting the language “29-16-114” and by substituting instead the language “29-16-110”.

SECTION 25. Tennessee Code Annotated, Section 29-20-105, is amended by deleting the section in its entirety.

SECTION 26. Tennessee Code Annotated, Section 12-1-205, is amended by deleting the language “recover the same attorneys’ fees, costs and expenses as are allowable in actions brought pursuant to §29-16-123(b).”, and by substituting instead the language “recover reasonable costs, disbursements and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.”.

SECTION 27. Tennessee Code Annotated, Section 12-1-206, is amended by deleting the language “within the same limitation of actions period as provided in §29-16-124 for actions commenced pursuant to §29-16-123.”, and by substituting instead the language “within twelve (12) months after the property or property rights have been actually taken possession of, and the work of the proposed internal improvement begun; saving, however, to unknown owners and nonresidents, twelve (12) months after actual knowledge of such occupation, not exceeding three (3) years, and saving to persons under the disabilities of infancy and unsoundness of mind, twelve (12) months after such disability is removed, but not exceeding ten (10) years.”.

SECTION 28. This act shall take effect July 1, 2006, the public welfare requiring it and shall apply to all condemnation proceedings occurring on and after such date.